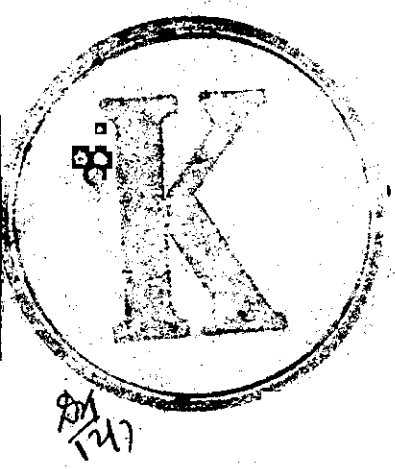

19 50.

File No. L.A. Loans / 50

Legal Department—

A **BRANCH**

Subject:—

Opinions under the Local Authorities Loans Act 1914

P.L.4 / C

File No. L.A. Loans/50

Gen. 194 c.

676-A

C O N T E N T S.

Legal Department File No. O. L.A. Loans/50

Sr. No.	Compilation No.	Subject.	Pages.
	O.L.A.Loans 1950.	Opinions under the Local Authorities Loans Act, 1914.	
1.	On. 14333 12-10-50	Whether the procedure for the grant of loans to local bodies in the areas of Ex-Baroda State is governed to the provisions of the Act.	1.
2.	On. 14747 24-10-50	Urgent loans to local authorities procedure prescribed by rules 3,4A and 9 to ~~max~~ be followed.	3.
3.	On.18412. 29-12-50	Balance of loan remaining after the partial repayment to be treated as a first loan for the remaining period of loan and the scheme of liquidation revised accordingly etc.	5-6.

DM 10/1

DM 12/1

Office of the R.L.A.

It is no doubt true that by section 5 of the Bombay Merged States (Laws) Act, 1950, the Government Loan Rules in Baroda were continued in force. At the same time the Local Authorities Loans Act, 1914, was also applied to Baroda. The Baroda Rules are limited in scope to loans by Government to persons and bodies mentioned in the Rules, whereas the Local Authorities Loans Act, 1914, makes provision for the borrowing powers of local authorities (including Municipalities) from other sources as well. In respect of loans by Government after the Bombay Merged State (Laws) Act, 1950, two enactments became applicable, namely, the Local Authorities Loans Act, 1914, and the Baroda Government Loan Rules 1931. On the complete integration and parcelling out of the Baroda territory into different Districts, it would be impossible to apply the Govt. Loan Rules of Baroda for cases of loans which were to be made thereafter, and obviously the cases of grants of new loans would be governed by the Local Authorities Loans Act, 1914. The presumption made at 'A' of L.S.G. & P.H.Deptt. note is correct. It is worth pointing out that even under the Baroda Rules the effect of the order No. 462/82 dated 16-4-1949 passed by the former Baroda Government was not to dispense with the provisions of the Rules; and that although guiding principles may have been laid down and a ten years' programme was chalked out, the Rules were to apply, and it would have been necessary to examine each case on its merits before a loan was acutally granted upon the principles, enumciated in the said order of the Baroda Govrnment.

2. It follows that the presumptions at 'B' & 'C' are also correct.

U.R. to L.S.G. & P.H. Deptt. No 14333 dt. 12th Oct. 1950

Sd. P.M.Lad.
Remembrancer of Legal Affairs

Bombay Local Authorities Loans Rules 1923.

Rules 3, 4A and 9.

The view 'A' of L.S.G. & P.H.D. office note is correct. The procedure by rules 3,4A and 9 is required to be followed even in the case of urgent loans to local authorities. Since Government appears to have already sanction loans without following such procedure, to regularise the position action as proposed at B of the L.S.G. & P.H.D. office note may be taken. In future such irregular procedure should be avoided.

Sd. P.H.Lad.

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 14747, dated the 24th October 1950.

VOP. 29-6-56.

Submitted.

2. By G.R.G.D. No. 8791 dated the 18th Januqary 1937 the Amalner Municipality was permitted to raise a loan of Rs. 86,000/- in the open market for repayment of a previous loan, on terms and conditions mentioned in the Municipality's applicationNo. 224, dated the 29th May 1936. Under condition 11 of the conditions of the loan the Municipality has to establish a sinking fund and has the option of redeeming the debentures at any time after ten years of the raising of the loan after giving three months' notice. To save interest on the loan the Municipalit has paid a sum of Rs. 34, 000 out of the sinking fund accu mulations. The Examiner L.F.A. has taken ian objection to the part payment of the loan out of the sinking fund on the grounds, that under condition 11 of the whole of the loan can be repaid, and part payment and that too without speci fic orders of Govt. is irregular; and that payment out of sinking fund accumulations disturbs the prescribed scheme of liquidation of the loan and makes it unsound. He has therefore sug ested two alternatives to cure the alleged irregularities viz.

(i) The balance of loan remaining after the partial repayment of Rs.31,000/- may be treated as a fresh loan for the remaining period of the loanand the scheme of liquidati on revised accordingly.

(ii) The theoritical or value of the Sinking Fund and the future annual instalment to Sinking Fund may be reduced in the same proportion as the repaid poriton of the loan bears to the whole loan. In this case the Muny. Will have to make good a deficit of Rs. 14,415/- to the existing Sink ing Fund.

The R.L.A. is requested to advise as to which of the two alternatives would be legally feasible.

O.O.R. No L-S 9. 4 P.H-D. Pro. 18412 dt. 29-12-50

VGP. 29-6-56.